



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,435	04/12/2004	Gloria Falla	PL101USU	1439
7590 10/05/2005			EXAMINER	
Charles N. J. Ruggiero Ohlandt, Greeley, Ruggiero & Perle, L.L.P. 10th Floor One Landmark Square Stamford, CT 06901-2682			HALE, GLORIA M	
			ART UNIT	PAPER NUMBER
			3765	
DATE MAILED: 10/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No.		Applicant(s)	
	10/822,435		FALLA, GLORIA	
	Examiner		Art Unit	
	Gloria Hale		3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5-12&7/8/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5,7-12,15-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ophir (US D 246704).

Ophir discloses a fastener with a first arm and a second arm and a wave portion to form a triangular or heart shape. The wave portion of Ophir includes a flange and with the first and second arms connected together at one end to form a plane. The arms of Ophir have first and second ends as claimed. The wave portion in Ophir is seen in the top center of the heart shape and the flange is the same as applicants as seen in figure 3(the center shaded area). The “Angle” formed in Ophir are within the claimed ranges as seen in the figures 1-3. When used in a brassiere as a shoulder strap fastener the Ophir fastener functions as claimed and as outlined in the intended use recitation. The intended use recitation has not been given patentable weight since the claimed structure does not distinguish the claimed invention over the prior art fastener satisfying the same structural limitations. (See Ophir, figures 1-3).

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wales (US348871).

Art Unit: 3765

Wales discloses a fastener as seen in figure 8 with first and second arms connected at an angle(at the sides),including a wave portion, a flange(both at the bottom) with tapered sides and wherein the shape of the fastener is a triangular or heart shape as broadly claimed. Applicant has not defined the heart shape as being of a human body heart shape or a "commercial heart shape".The pair of tapered sides are parallel as claimed and the first and second arms have first and second ends and where in the first and second arms are connected together at one end to form a plane. In regard to claim 19, Wales discloses the arm configuration as broadly claimed and as best understood wherein the arm is angled and the other is parallel to the plane as seen in figure 6 of Wales.

The fastener of Wales when used to attach a shoulder strap to a brassiere would create the biased orientation (due to the angled arms) in relation to the body of the brassiere as claimed. However, the intended use recitations have not been given patentable weight since they do not further distinguish the structure of the inventive fastener over the prior art fastener satisfying the same structural limitations. The angles created by the first and second arms appear to be in the claimed ranges as seen in figure 8.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ophir (US D 246,704) in view of Hittel et al (US 3,699,971).

Ophir discloses the invention substantially as claimed. However, Ophir does not disclose the fastener as specifically being placed on a shoulder strap of a brassiere to connect the strap to the brassiere panel. Hittel et al discloses a fastener clasp 44 (as seen in figure 1) to attach a shoulder strap to a brassiere panel. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fastener of Ophir within a brassiere to connect a brassiere shoulder strap to a brassiere in the front or the rear and wherein such use would create an angled connection and position of the shoulder strap that would be inherently caused by the angled arms which hold the strap ends. (See Hittel et al, figure 1).

Response to Arguments

Applicant's arguments filed 7-8-05 have been fully considered but they are not persuasive. In response to applicant's remarks on page 8, last paragraph of applicant's response the arms of the Ophir connector connect at an angle as broadly claimed at the base of the heart shape. The connector is at an angle which then proceeds into a curved edge. The angled portions on the sides of the Ophir fastener, when connected to the bra straps at a shoulder strap location and a strap connected to a bra back, as applicant's, would provide the angle and biased position between the shoulder strap and back strap /panel as claimed. The present claims only claim the connector structure broadly and its intended use on a bra strap and do not claim the bra structure

Art Unit: 3765

with the strap attached to the bra back panel on an angle or in a biased position. The orientation described by applicant's representative on page 8 in regard to the perceived orientation of the Ophir connector on a brassiere structured as applicants is unclear. It is not clear as to how applicant believes the Ophir connector would function as described on page 8. The flange of Ophir is seen in the center of the upper edge portion of the fastener. The tapered sides are the arm portions parallel to the sides of the Ophir connector. The arms are about the same angles as claimed as seen in the figures at the angle at the bottom of the connector and the areas above then curve. Ophir includes the claimed structure and is usable as intended as applicants. In regard to the Wales patent, the straps fit through the spaces within the Wales connector. Wales allows straps to go through the openings. The present inventions back portion is a strap attached to the back panel. The strap is what goes through the connector and not the back panel main part itself. This is seen in figure 5. Nothing precludes the Ophir and Wales connectors from any use as a bra strap connector as claimed. The heart structure is usable as a connector in any form that is only limited by the imagination of the user. The angle of the straps when the fastener is used depends on which sides are used in the strap connection. Applicant has not positively recited the brassiere structure itself other than as an intended use statement that has not been given any patentable weight. One of ordinary skill in the art of garment manufacturing would know to substitute the Hittel connector with any known connector to achieve a strap arrangement of an angled design to achieve a desired aesthetic effect as a matter of design choice.

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Tues.-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gloria Hale
Primary Examiner
Art Unit 3765
